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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,630	03/29/2004	Jamie A. Forrest	60282-032	2366

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EXAMINER

LOPEZ, FRANK D

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/811,630

Applicant(s)

FORREST, JAMIE A.

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 21-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 112***

Claims 1, 2, 21-29 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 24 line 2-3 "a fluid cylinder pump; a pressure assembly within said fluid cylinder pump" makes no sense, since the pressure assembly forms the fluid cylinder.

In claim 25 line 1-2 "each of said non-metallic packing assembly" is confusing, since only a "packing assembly" (claim 24 line 7) is claimed, without it being non-metallic or there being more than one.

In claim 26 line 3 "the fluid cylinder pump" has no antecedent basis.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 21 and 22; and 23 are provisionally rejected under the judicially created doctrine of double patenting over claims 1; and 2, respectively, of U.S. Patent No 6,886,832. Claims 1 and 2 claim all the limitations of the seal assembly of claims 1, 2, 21 and 22; and 23; but does not claim the seal assembly is pressed into a frame plate

of a fluid cylinder having outer and inner pressure members having an angled interference surface therebetween, and a plunger reciprocating moveable within the pressure assembly.

Van Den Berg et al teaches, that a seal cartridge assembly (24) is pressed into a frame plate (22) attached to a pressure assembly, which includes outer (32) and inner (3 fig 3, or 26 fig 4) pressure members, and a plunger (5) reciprocating moveable within the pressure assembly; for the purpose of sealing between the plunger and the pressure assembly.

Gardin et al teaches that a pressure assembly comprising outer (1) and inner (2) pressure members, with a plunger (5) reciprocating moveable within the pressure assembly; that the outer (1) and inner (2) pressure members have an angled interference surface therebetween (1a, 2b).

Since claims 1; and 2 of U.S. Patent No 6,886,832 doesn't claim a use for the seal assembly, and Van Den Berg et al does; and the pressure assemblies of Van Den Berg et al and Gardin et al are functionally equivalent in the piston art, it would have been obvious at the time the invention was made to one having ordinary skill in the art to press the seal assembly of claims 1; and 2 of U.S. Patent No 6,886,832 into a frame plate of a fluid cylinder having outer and inner pressure members and a plunger reciprocating moveable within the pressure assembly, as taught by Van Den Berg et al, for the purpose of sealing between the plunger and the pressure assembly, with the outer and inner pressure members having an angled interference surface therebetween, as taught by Gardin et al, as a matter of engineering expediency.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by Gardin et al (see discussion below).

Claims 26 and 29 are rejected under 35 U.S.C. § 102(b) as being anticipated by Baumann 5,033,940 (see discussion below).

Throughout the claims "A high pressure jetting system" (e.g. claim 1 line 1) and "pump" (e.g. claim 1 line 2) are considered intended use, and are therefore given no patentable weight.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 27 is rejected under 35 U.S.C. § 103 as being unpatentable over Baumann 5,033,940. Baumann 5,033,940 discloses a method of assembling a cylinder system comprising locating an outer pressure sleeve (67) within a frame plate (30), locating an inner pressure sleeve (26) within the outer pressure sleeve and attaching a manifold to the frame plate; but does not disclose that the manifold is attached to the frame plate by bolting .

Official notice is taken that it is well known to attach a manifold to a frame plate using bolts. It would have been obvious at the time the invention was made to one having ordinary skill in the art to attach the manifold to the frame plate of Baumann 5,033,940 using bolts, as a matter of engineering expediency.

Claims 21, 24 and 25 are rejected under 35 U.S.C. § 103 as being unpatentable over Gardin et al in view of Van Den Berg et al. Gardin et al discloses a pressure assembly comprising outer (1) and inner (2) pressure members having an angled interference surface therebetween (1a, 2b) and plunger (5) reciprocating moveable within the pressure assembly; but does not disclose that a seal cartridge assembly is pressed into a frame plate; or that a packing assembly is located about the plunger and has inner and outer diameter wedge rings, and non-metallic packing rings having a square cross section.

Van Den Berg et al teaches, for a pressure assembly comprising outer (32) and inner (3 fig 3, or 26 fig 4) pressure members, and a plunger (5) reciprocating moveable within the pressure assembly; that a seal cartridge assembly (24) is pressed into a frame plate (22) attached to the pressure assembly, with non-metallic packing rings (unmarked, about seals 33, 34) having a square cross section, for the purpose of sealing between the plunger and the pressure assembly.

Since Gardin et al and Van Den Berg et al are both from the same field of endeavor, the purpose disclosed by Van Den Berg et al would have been recognized in the pertinent art of Gardin et al. It would have been obvious at the time the invention was made to one having ordinary skill in the art to press a seal cartridge assembly, with non-metallic packing rings having a square cross section, into a frame plate attached to the pressure assembly of Gardin et al, as taught by Van Den Berg et al, for the purpose of sealing between the plunger and the pressure assembly. For claims 24 and 25, the seal cartridge assembly and frame plate are the inner and outer diameter wedge rings.

Claims 26-28 are rejected under 35 U.S.C. § 103 as being unpatentable over Stachowiak in view of Gardin et al. Stachowiak discloses a method of assembling a cylinder system comprising locating an outer pressure sleeve (32) within a frame plate (13), such that a flange (33) of the outer sleeve abuts the frame plate; and bolting (by 17) a manifold (15) to the frame plate; but does not disclose that the step of locating an inner pressure sleeve within the outer pressure sleeve.

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Gardin et al teaches, for a method of assembling a cylinder system comprising locating an outer pressure sleeve (2) within a frame plate (1); that the step of locating an inner pressure sleeve (3) within the outer pressure sleeve, for the purpose of minimizing damage if the liner fails (e.g. column 2 line 9-47).

Since Stachowiak and Gardin et al are both from the same field of endeavor, the purpose disclosed by Gardin et al would have been recognized in the pertinent art of Stachowiak. It would have been obvious at the time the invention was made to one having ordinary skill in the art to include the step of locating an inner pressure sleeve within the outer pressure sleeve of Stachowiak, as taught by Gardin et al, for the purpose of minimizing damage if the liner fails

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.



F. Daniel Lopez  
Primary Examiner  
Art Unit 3745

September 19, 2005